

Article - Estates and Trusts

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§3–413. NOT IN EFFECT

**** TAKES EFFECT OCTOBER 1, 2020 PER CHAPTER 435 OF 2019 ****

In an action arising under this subtitle, a court may:

- (1) On a showing of clear and convincing evidence, modify:
 - (i) The calculation of the value of an augmented estate;
 - (ii) The calculation of the value of an estate subject to election;
 - (iii) The calculation of the value of spousal benefits; or
 - (iv) The sources of payment of an elective share;
- (2) Consider the circumstances of any transfer or arrangement, including:
 - (i) The extent of control retained by the decedent;
 - (ii) The motivation for the transfer or arrangement;
 - (iii) The familial relationship between the decedent and the beneficiary of the transfer or arrangement;
 - (iv) The degree, if any, to which the transfer or arrangement deprives the surviving spouse of property that otherwise might form part of the value of the augmented estate, estate subject to election, or spousal benefits;
 - (v) The degree, if any, to which the transfer or arrangement provides a benefit to the surviving spouse beyond what would be available to the surviving spouse as part of the elective share;
 - (vi) The length and nature of the relationship between the decedent and the surviving spouse;
 - (vii) The nature and value of the surviving spouse's assets; and

(viii) The relationship of the beneficiary of the transfer or arrangement to any previous owner of the property subject to the transfer or arrangement;

(3) Award reasonable attorney's fees;

(4) Pass orders requiring the holder or recipient of any portion of an augmented estate, an estate subject to election, or spousal benefits to provide any information that the court considers necessary to determine the value or sources of payment of an elective share; and

(5) Transmit issues of fact relating to the value or sources of payment of an elective share to the circuit court of the county in which the election under § 3-403 of this subtitle is filed.

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